

LEGAL TERMS IN DISSOLUTION & PARENTING PLANS

Affidavit – A written statement you swear is true before someone who can legally administer an oath to you. The person who can administer the oath is usually a Notary Public and you must sign your document in front of this person.

Agreement – An oral or written promise to do something.

Answer – The Respondent’s written response to the claims made in a Petition.

Appeal – A request to a higher court for a different judgment.

Asset – Something of value that belongs to you whether you have it with you or not.

Certificate or Affidavit of Service – A form filed with the clerk’s office stating that the other person in your case received the papers filed in the case.

Child Support – Court-ordered money paid by one parent to another for the care of a minor child.

Court Clerk – A person whose duty it is to maintain the records of the court, to assist in preparing court reports, and to basically perform the duties of the court for the judges as well as assisting the public.

Court Rules – A set of procedures of the court that have to be followed by both the people who file cases and the attorneys who represent them.

Debt – Money you owe or a claim someone can make that you owe them money.

Default Judgment – When a person who has been served with documents fails to answer, either the clerk or the court may enter a judgment by default to the other person. Basically, if you do not answer or show up to court, a judgment will be made without you. This is never good for you.

Discovery – A pretrial proceeding where a person has the chance to learn information that is known by the other person in the case or by other witnesses.

Dissolution – More commonly known as divorce, a dissolution is when a marriage is dissolved through a court action.

Domestic Violence – When one domestic partner or family member uses physical violence, threats, intimidation, sexual abuse, or economic abuse to control the behavior of another domestic partner or family member.

Evidence – Any presented proof which might come from witnesses, testimony, records, and documents.

Filing Fee or Appearance Fee – This is a fee that the Clerk of Court charges for you (or your attorney) to file your case or to respond to your case. The fees are different for filing different types of cases or documents. If you have your fees “waived” (see below) you won’t have to pay these fees

Fee Waiver – If you can establish that you meet the income guidelines, you may not have to pay all or part of the court fees such as the filing fee.

Financial Disclosure – A statement showing the details of income and expenses as well as assets and debts.

Hearing – Any proceeding before a judge or magistrate without a jury where you can present evidence and argument. Hearings are usually used to decide some issue of fact or law.

Judge – A public official who hears and decides cases brought before a court of law.

Jurisdiction – Authority of a court to hear certain cases¹

Lawyer – A person authorized to practice law, conduct lawsuits, or give legal advice. In Montana, only lawyers licensed in Montana are authorized by law to give legal advice.

Mediation – A method of solving problems without going to court.

Motion – A formal request to the court. A motion is in writing sometimes and other times a verbal request.

Notice of Hearing – An official notice telling the people involved in the case when a hearing is scheduled. You should never ignore a Notice of Hearing.

Order – Written decision of a judge.

Order of Protection – A court order that tries to protect the victim by keeping the abuser away from the victim.

Parenting Plan – A plan that states when and where each parent will be with and responsible for each child. It also includes who is responsible for decision making and provides for the financial care of the child.

Petition – A formal written request to the court (requesting the court to do something.)

Petitioner – The person who starts the divorce.

Pleadings – Legal documents filed with the court.

Pro Se – A person who represents himself in court alone without the help of a lawyer.

Respondent – The person a divorce is being brought against.

Response – An answer to a legal document. In family law, it is an answer to the Petition for Dissolution.

Service of Process – The legal methods of delivering papers to the other person and proving to the court that the papers were received (Certificate or Affidavit of Service.)

Settlement – An oral or written promise to resolve a problem, especially before going to court.

Spousal Support – Payment for support of an ex-spouse (or a spouse while the divorce is pending) ordered by the court. More commonly known as alimony.

Subpoena – A written legal notice requiring a person to appear in court and give testimony or produce documents.

Summons – A notice to the person named that an action has been filed against that person.

Testimony – A solemn statement made under oath.

Venue – The specific county, city, or geographical area over which a court has authority.

Witness – One who can either give a firsthand account of something seen, heard or experienced, or who is qualified to express an expert legal opinion or facts about the case.

¹ Petition jurisdiction requirement M.C.A. § 40-4-104